

Amendments to the Drawing Figures:

The attached drawing sheets include proposed changes to FIGs. 1 and 2, and a new FIG. 3, and replace the original sheets including FIGs. 1 and 2.

Attachment:

Replacement Sheets 1-2

New Sheet 3

REMARKS / DISCUSSION OF ISSUES

Claims 1-16 are pending in the application. The Office action mistakenly reports that claims 1-4 and 6-16 are pending in the application. The applicant notes that the Examiner refused to enter the amendment that was submitted on 5 December 2003, and therefore claim 5 is still pending.

Claims are amended for non-statutory reasons: to correct one or more informalities, remove figure label numbers, and/or to replace European-style claim phraseology with American-style claim language. The claims are not narrowed in scope and no new matter is added.

The Office action objects to the drawings; replacement drawings and an additional drawing are attached herein. These drawings add no new matter.

The Office action rejects claims 1, 6, 11, and 13 under 35 U.S.C. 112, second paragraph. The Office action asserts that an Internet gateway, the Internet, and a home network are necessary elements of each of these claims. The applicant respectfully traverses this rejection.

Although the Internet is an exemplary means for communicating data from a server to a consumer apparatus, there are many other communication means that could provide this service, now or in the future.

Further, claim 1 claims a consumer apparatus; neither the Internet, nor the home network are elements of a consumer apparatus, and therefore their absence from the claim is immaterial.

In like manner, claim 6 claims a proxy device, which also cannot contain the Internet nor the home network.

Claim 11 is a remote control for a consumer apparatus, and cannot contain the Internet nor the home network, and is not likely to contain an Internet gateway.

Claim 13 is a method claim that specifically recites providing a service via the Internet, and the steps that are recited are sufficient to define the claimed method. The inclusion of specific structural elements to effect the steps of a claimed method is not required.

Additionally, MPEP 2172.01 states:

"A claim which omits matter **disclosed to be essential** to the invention as described in the specification or in other statements of record may be rejected under 35 U.S.C. 112, first paragraph, as not enabling. *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See also MPEP 2164.08(c). Such essential matter may include missing elements, steps or necessary structural cooperative relationships of elements **described by the applicant(s) as necessary** to practice the invention."

The applicant has not disclosed or described the elements suggested for inclusion by the Office action as being either essential to, or necessary to practice, the invention.

Because the claims are complete as written, the rejection of claims 1, 6, 11, and 13 under 35 U.S.C. 112, second paragraph, should be withdrawn.

The Office action rejects claims 1-4 and 6-16 under 35 U.S.C. 112, second paragraph. The applicant respectfully traverses this rejection.

Claims 5-10 are amended to recite "proxy device" as suggested by the Examiner.

The Office action asserts that each of "the apparatus" in claims 1-4 and 11, "the URL" in claims 7-8, and "the identifier" in claims 13-16 lack an antecedent basis. The applicant respectfully disagrees with this assertion. The antecedent bases for "the apparatus" in claims 1-4 and 11 are found in claim 1 ("A consumer apparatus") and claim 11 ("a consumer apparatus"), respectively. The antecedent basis for "the URL" in claims 7-8 is found in claim 5 ("a predetermined URL"). The antecedent basis for "the identifier" in claims 13-16 is found in claim 13 ("a predetermined identifier").

The Office action asserts that the terms "apparatus" and "URL" must be preceded in each instance by the adjective used when they were introduced (i.e. "consumer apparatus" and "predetermined URL"). Presumably, based on this

assertion, the term "identifier" must also be preceded by "predetermined". The applicant respectfully disagrees with this assertion. Because there is only one apparatus referenced in claims 1-4 and 11, the use of the noun "apparatus" without a qualifying adjective is unambiguous. Similarly, because there is only one URL referenced in claims 7-8, and only one identifier in claims 13-16, the use of the nouns "URL" and "identifier" without a qualifying adjective is also unambiguous.

The Office action suggests adding "the step of" after "comprising" in claims 14-16. The applicant respectfully declines; there is no requirement to use the term "step" in a method claim.

The Office action objects to the phrase "under control of"; claims 1 and 5 are amended to equivalently recite "based on" in lieu of "under control of".

The Office action states that the Examiner does not understand how the URL or identifier is programmable, nor how an identifier can represent a URL. The following paragraphs are submitted to assist in the understanding of these commonly used terms, and are not intended to limit the scope of the claims to any particular example used herein to facilitate this general understanding.

As is known in the art of computer programming, data items can be constants or variables; constants cannot be changed by a program, while variables can be changed by a program. Data items that can be changed by a program are conventionally referred to as being programmable. A commonly used term that the Examiner may be familiar with is "user-programmable"; a 'speed-dial number' of a telephone, for example, is commonly referred to as being "user-programmable".

As is also known in the art, when a first item represents a second item, there is generally a mapping between values of the first item and values of the second item. Text strings, such as names, for example, are often used to represent sequences of digits, each particular text string representing a particular sequence of digits, because it is easier to remember, or easier to type, a familiar text string rather than a sequence of digits. An example of items representing URLs that the Examiner may be familiar with is the use of "Favorites" in a web-browser. The user defines an easy

to recognize name to each "favorite" URL; thereafter, the user need only remember the name to access the represented URL.

The applicant trusts that the above explanations are sufficient to facilitate the Examiner's understanding of the terms "programmable" and "represent".

Based on the above remarks, the applicant respectfully maintains that the rejection of claims 1-4 and 6-16 under 35 U.S.C. 112, second paragraph, should be withdrawn.

The Office action rejects claims 1-4 and 6-16 under 35 U.S.C. 102(e) over Humpleman et al. (USP 6,546,419, hereinafter Humpleman). The applicant respectfully traverses this rejection.

The Examiner's attention is requested to MPEP 2131, wherein it is stated:

"A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The *identical invention* must be shown in as *complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Also, the Board of Patent Appeals and Interferences has consistently upheld the principle that the burden of establishing a prima facie case resides with the Office, and to meet this burden, the Examiner must specifically identify where each of the claimed elements are found in the prior art:

"there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. Scripps Clinic & Research Found. v. Genentech, Inc., 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). To meet [the] burden of establishing a prima facie case of anticipation, the examiner must explain how the rejected claims are anticipated by pointing out *where* all of the specific limitations recited in the rejected claims are found in the prior art relied upon in the rejection." *Ex Parte Naoya Isoda*, Appeal No. 2005-2289, Application 10/064,508 (BPAI Opinion October 2005).

In the Board's recent Decision on Appeal in this case, the Board summarized the basis for their opinion by stating:

"Anticipation is established only when a single prior art reference discloses, expressly or under the principle of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir. 1984)."

The Office action uses claim 1 as an exemplary claim to support the rejection of each of the other claims in this application.

Claim 1 recites a consumer apparatus responsive to a user-input for initiating retrieval of data from a server based on a predetermined URL or an identifier thereof associated with the apparatus, the data representing content information about the context of usage of the apparatus.

Humpleman fails to disclose a consumer apparatus responsive to a user-input for initiating retrieval of data from a server based on a predetermined URL or an identifier thereof associated with the apparatus, the data representing content information about the context of usage of the apparatus, and the Office action fails to identify where Humpleman teaches each of these limitations.

The Office action asserts that Humpleman's "Home Network" corresponds to the applicant's claimed "consumer apparatus". Assuming in argument that a network can be an apparatus, the Office action fails to show where Humpleman teaches a URL or an identifier that is associated with the Home Network, per se.

The Office action references the URL entry in Humpleman's Table 2 (FIG. 11), but fails to show that the URL corresponds to data representing content information about the context of usage of the apparatus. The referenced URL is the "Device Manufacturer's home page URL", and is not specific to the apparatus.

The Office action fails to address where Humpleman teaches that the apparatus is responsive to a user-input for initiating retrieval of data from a server based on a predetermined URL.

The Office action fails to address where Humpleman teaches retrieving data representing content information about the context of usage of the apparatus based on a predetermined URL.

Because the Office action fails to identify where Humpleman teaches each of the elements of the applicant's claim 1, the applicant respectfully maintains that the rejection of claims 1-4 and 6-11 under 35 U.S.C. 102(e) over Humpleman is unfounded, per MPEP 2131, and should be withdrawn.

In view of the foregoing, the applicant respectfully requests that the Examiner withdraw the rejections of record, allow all the pending claims, and find the application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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